

### REMARKS

Claims 19 to 22 are added, and therefore claims 9 to 22 are now pending and being considered (since claims 1 to 8 were previously canceled).

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 1 to 18 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

As an initial matter, claims 1 to 8 were canceled. As to claim 9 (and its dependent claims), it is respectfully submitted that if the Office concludes that a rejection under 35 U.S.C. 112, ¶ 2 is appropriate, an analysis as to why the phrase(s) used in the claim are “vague and indefinite” should be included in the Office Action. M.P.E.P. § 2173.02. The Office has not included any such analysis. Instead, the Office conclusorily asserts that it “would be better to have additional functional recitation,” which is completely unrelated to whether the phrases or terms of the claim are vague and indefinite. In this regard, the claims recite the invention. Their purpose is not to explain how the invention works, since that is left to the specification. *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1558 (Fed. Cir. 1983). Claim 9 is clear and gives rise to no ambiguity, and is therefore definite -- as are its dependent claims.

Claims 1 to 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Oswald et al., U.S. Patent No. 6,907,335 in view of Knopp et al., U.S. Application No. 2004/0030497.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

As explained, claims 1 to 8 were previously canceled.

Claim 9 specifically provides that *a sensor arrangement determines the velocity of the vehicle and that the remote sensor is used to perform a plausibility check for the velocity of the vehicle*. In the context of the exemplary embodiment, a velocity is determined by a sensor arrangement 14, as provided for in claim 9. This determined velocity is then subjected to *a plausibility check by another sensor* – namely, the remote sensor.

In contrast, the “Knoop” reference does not disclose nor even suggest the feature of determining a *plausibility check*, as provided for in the context of the subject matter of claim 9. There is nothing in the “Knoop” reference that remotely relates to a plausibility check. In fact, it is indicated that there is a “device for determining vehicle speed.” (The “Knoop” reference, page 3, paragraph [0033].) This speed is taken for its face value and not checked as to its plausibility or used to verify the plausibility of another speed measurement. There simply is no indication that the *plausibility* of the speed is considered or evaluated in any way. Measuring speed is wholly different than determining the plausibility of the speed.

Accordingly, neither the “Oswald” reference by itself (or in combination with the relied upon “Knoop” reference) describes or even suggests the claim 9 feature in which *the remote sensor is used to perform a plausibility check for the velocity of the vehicle*, as provided for in the context of the presently claimed subject matter.

It is noted that the specifically cited “Knoop” United States Patent Application Publication is not prior art under 35 U.S.C. §103(a). The present application and the specifically cited “Knoop” United States Patent Application Publication were, at the time of the invention, commonly owned by and/or under an obligation of assignment to Robert Bosch GmbH. Therefore, under 35 U.S.C. 103(c), the specifically cited “Knoop” United States Patent Application Publication is not itself prior art as specifically applied.

Therefore, the applied reference(s) do not disclose or suggest all of the features of claim 9, so that it is allowable, as are its dependent claims 10 to 18.

New claims 19 to 22 do not add any new matter and are supported by the present application, including the specification. New claims 19 to 22 depend from claim 9, and are therefore allowable for at least the same reasons as claim 9.

It is therefore respectfully submitted that claims 9 to 22 are allowable.

**Conclusion**

It is therefore respectfully submitted that all of pending and considered claims 9 to 22 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

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